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# **DISCLOSURE & BARRING SERVICE (DBS) POLICY – HR02**

**Version: 4**

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| **Target Audience:** | Employees working in social care settings. | |
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| **Signature and approval of Director:** |  | |

# **DISCLOSURE & BARRING SERVICE (DBS) POLICY – HR02**

**1. INTRODUCTION**

Phoenix Support is committed to safeguarding the welfare of those accessing our services and has a statutory duty of care towards vulnerable members of society and DBS checks form one part of the checks undertaken to assure a person is suitable to work with Phoenix Support and our service users.

**2. POLICY STATEMENT**

Phoenix Support will not employ someone to work in Regulated Activity if they have been barred through a DBS Barred list whether that is Children or Adults. Phoenix Support would be breaking the law if we did so. Conversely, if an application is received from a person barred from working with children or adults they are breaking the law if they work/volunteer or seek to work/volunteer with these groups and Phoenix Support will report them to the relevant Authorities.

**3. DEFINITION**

This policy will apply to those seeking paid work or volunteering opportunities with Phoenix Support. In addition, student placements, contractors and other regulated positions will also come under the provisions of the policy where they involve unsupervised contact with children or adults.

**4. PURPOSE**

The DBS check is one part of the pre-work or employment checks undertaken to safeguard vulnerable people. Phoenix Support will use an Enhanced check for staff, with the inclusion of a Barred List check for those working in a Regulated Activity as one part of a range of safeguarding tools for assessing the suitability of preferred candidates and volunteers and the continued employment of those in specific roles which require re-checking. Other tools include thoroughly confirming identity, qualifications, taking up and verifying references and examining dates of employment histories on application forms.

**5. CONTEXT**

Phoenix Support has a duty to comply with the Safeguarding Vulnerable Groups Act (2006) and the Exceptions Order to the Rehabilitation of Offenders Act (1975). However, this duty must be carried out with due regard to all other relevant legislation including the Protection of Freedoms Act 2012, the Rehabilitation of Offenders Act (1974), the Data Protection Act (1998), the DBS Code of Practice and the Human Rights Act (1998).

**6. IMPLEMENTATION**

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**6.1 TYPES OF DBS CERTIFICATE AND BARRED LIST CHECKS**

6.1.1 With the merging of the CRB and ISA to form the DBS there has been a change in terminology which will now appear throughout this policy, these are:

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| --- | --- |
| **Previous term** | **New term** |
| Criminal Records Bureau (CRB), Independent Safeguarding Authority (ISA) | Disclosure & Barring Service (DBS) |
| Enhanced CRB check | Enhanced DBS check |
| Enhanced CRB check with Barred List Check | Enhanced check for Regulated Activity |
| ISA Adult First | DBS Adult First |
| Vulnerable Adults | Vulnerable groups |

6.1.2 The Protection of Freedoms Act 2012 has resulted in a differentiation between those posts which can legally have an Enhanced DBS check and those posts which can also legally be checked against the Children or Adult Barred Lists (an Enhanced check for Regulated Activity). The definition of Regulated Activity can be found in the Procedure.

**6.2 DBS CERTIFICATES**

6.2.1 The DBS will no longer automatically issue a copy of the applicant’s DBS Certificate to the Registered Body who countersigned the DBS application form. The recruiting manager must ask the applicant for sight of their DBS Certificate and consider the information contained.

6.2.2 Phoenix Support will pay for new employee DBS checks to be undertaken on commencing employment, this fee will be recoverable in full if the employee leaves Phoenix Support within the first 6 months of their employment. Certificates will remain the property of the employee at all times.

6.2.3 Where recovery of costs is undertaken by Phoenix Support it will be deducted directly from any money owing from the final payroll.

**6.3 DBS UPDATE SERVICE**

6.3.1 For an annual subscription of £13 a year for employees and free for volunteers, applicants can have their DBS Certificate kept up-to-date and take it with them from role to role, within the same workforce, where the same type and level of check is required.

6.3.2 All staff will be responsible for the payment of their own DBS update service, employees will be required to apply for this at the same time they provide their certificate to Phoenix Support administration prior to employment, and in any case this must be done within 19 days of the certificate being issued. It is a mandatory requirement and proof of update will be required at certain intervals, and liable to spot check at any time.

6.3.3 Phoenix Support will pay for the first DBS check only, if staff do not register and pay for the online update (£1 per month) they will be responsible for the cost of the three yearly renewal currently at £56.00 for the enhanced check.

6.3.4 Phoenix Support Administration will be responsible for monitoring the compliance of this.

**6.4 APPLICANTS WITH ADVERSE CERTIFICATES**

6.4.1 If a DBS check reveals details of convictions which may render the applicant unsuitable for the applied post, the appointing manager will discuss the situation with the applicant in line with the DBS Code of Practice, which is available from:

<https://www.gov.uk/government/publications/dbs-code-of-practice>

6.4.2 When assessing any Certificate or declared conviction information received, consideration will be given to a range of issues and the risk assessment will support a manager’s decision enabling them to assess the suitability of the applicant for their proposed position in light of matter(s) disclosed on their DBS certificate.

6.4.3 Where there are doubts over suitability for employment, it will be discussed with Senior Managers prior to discussing it with the applicant. The views of the Company Director, or delegated person will be sought where risks are identified with recruiting an individual who has convictions or cautions.

6.4.4 In considering whether there is a risk of “harm”, the following definition should be considered.

6.4.4.1 Harm is defined as a violation of an individual's human and civil rights by another person or persons. It may consist of a single act or repeated acts, and may be physical, verbal, or psychological. It may be an act of neglect or an omission to act, or occur when a vulnerable person is persuaded to enter into a financial or sexual transaction to which he or she has not or cannot consent and may result in significant harm to, or exploitation of, the person subjected to it.

6.4.5 Phoenix support operates a positive employment policy and positive risk management strategy, this means that previous convictions are not a bar to employment. We will assess each case and each conviction on merit and risk. However failure to disclose previous convictions may lead to dismissal or withdrawal of an employment offer

**6.5 ADMINISTRATION**

6.5.1 The Personnel Checklist Form **HRF002** must be placed on the front cover of all individual personnel files so that a Manager is able to see straight away that all of the appropriate check and records have been carried out.

6.5.2 The designated DBS Administrator at Head Office will keep sufficient records and a diary system of all DBS forms which are received and submitted to DBS. An audit trail of the application will be maintained.

6.5.4 The completed form will be sent from Head Office marked confidential and the Administrator will update the relevant computer records.

### 6.6 RENEWALS OF DBS CHECK

6.6.1 In consideration of whether or not someone is working in a regulated activity, DBS renewals must be undertaken for long serving employees and volunteers. For existing staff, Phoenix Support will review all DBS applications for employees or volunteers where the individual has a DBS check that is 3 years old or more.

6.6.2 The nature of this procedure is not to reflect on an employee's integrity, but is necessary to protect both Service Users and Phoenix Support. Phoenix Support actively promotes equality of opportunity for all with the right mix of talent, skills and potential, including those with criminal records.

6.6.3 Employees and volunteers on the list for a DBS renewal will be required to complete a new DBS application (or agree to an on-line status check where applicable) and failure to do so may, after investigation, lead to disciplinary action and could lead to dismissal.

### 6.7 DECLARATION OF CONVICTIONS OR CAUTIONS

6.7.1 Where an employed individual provides details of a conviction or caution that raises concerns relating to working with a vulnerable client group, a new DBS Certificate will be applied for as a matter of urgency.

6.7.2 The General Manager, or whoever the Company Director delegates the responsibility to, will review the declared conviction or caution and consider the potential risk of the individual continuing in their current work. This risk should then be eliminated or reduced through:

* management controls and supervision;
* restrictions on the type of tasks to be carried out within the current job role;
* temporary alternative work; **or**
* Suspension with pay.

6.7.3 The content of the DBS certificate will be considered in accordance with the Policy for Assessment of DBS Check.

### 6.8 DATA PROTECTION

6.8.1 Any information given to, or received by, Phoenix Support will be treated in the strictest confidence with access strictly controlled and limited to those who are entitled to see it as part of their duties.

6.8.2 Phoenix Support complies fully with the GDPR 2018, the Disclosure & Barring Service Code of Practice, and other relevant legislation in this regard. Phoenix Support has a written policy on GDPR and the correct handling, use, storage, retention and disposal of Certificate information, which are available to those who wish to see them on request.

6.8.3 This policy will be reviewed as required by regulation, legislation, good practice or when the process has failed.

**6.9 PROCEDURE FOR APPLYING FOR A DBS CERTIFICATE**

**6.9.1 Applying for a DBS Certificate -** DBS application forms are supplied at Head Office

6.9.1.1 The Administrator will accurately and comprehensively verify the identity of the applicant and ensure that successful job applicants and volunteers accurately complete the DBS application prior to its submission to the DBS. On-line status checks may be made where applicable.

6.9.1.2 The “Position Applied For” field on the application form must be completed. Failure to complete the field correctly may delay the application; it may also prevent the applicant from using their DBS Certificate for future employment

6.9.1.3Enter a description of the ‘Position Applied For’ up to 30 characters, If the applicant is to work or volunteer in a Regulated Activity, a check on the Barred List will be requested.

**6.9.2 DBS On-line Update Service - The** Administrator will ask applicants if they are a member of the *DBS Update Service*. If they are, with the applicant’s permission, Phoenix Support can use the applicants current DBS Certificate and carry out a free, instant online check to see if any new information has come to light since its issue. The job applied for must relate to the level of check shown on the DBS certificate.

**6.9.3 DBS Adult First Request**

6.9.3.1 DBS Adult First Requestchecks are only available in exceptional circumstances to permit a care worker to start work before a DBS Check has been issued. Such cases are permissible only where it is necessary to take such action because of a danger that staffing levels will otherwise fall below the numbers required to meet statutory obligations.

6.9.3.2 Employment pending a full DBS Check, and related requests for DBS Adult First Requestchecks, should be used only when necessary. If required, Phoenix Support will make the on-line application for the DBS Adult First Request.

6.9.3.3 Where the DBS Adult First Request is clear (no concerns are raised), before employment commences all pre-employment checks must have been carried out and stringent arrangements for the training and supervision of the employee must be in place during the period of conditional employment prior to receipt of the full DBS Check.

6.9.3.4 The results of DBS Adult First Request checks are classed as Certificate information. They are therefore subject to the same provisions of the DBS Code of Practice and will be retained, handled and stored in the same manner.

**6.10 DOCUMENTS THE APPLICANT MUST PROVIDE**

6.10.1 The person going through a DBS check - ‘the applicant’ - must give their employer original documents proving their identity. The documents needed will depend on the route the application takes. The applicant must try to provide documents from route 1 first.

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| --- | --- | --- |
| **Route 1** | **Route 2** | **Route 3** |
| 1 document from Table 1 | 1 document from Table 2a | a birth certificate issued after the time of birth (UK and Channel Islands) |
| 2 other documents from either or | 2 other documents from either | 1 document from Table 2a |
| Table 1 | Table 2a or 2b | 3 further documents from |
| Table 2a or 2b |  | Table 2a or 2b |
| **1 Must show current address** | **1 Must show current address** | **1 Must show current address** |

6.10.2 Route 3 can only be used if route 1 or 2 cannot be followed, if the applicant can’t provide these documents they may need to be fingerprinted.

**Table 1: Primary identity documents**

| **Document** | **Notes** |
| --- | --- |
| Passport | Any current and valid passport |
| Biometric residence permit | UK |
| Current driving licence – photo card with counterpart | UK/Isle of Man/Channel Islands (full or provisional) |
| Birth certificate - issued at time of birth | UK and Channel Islands – including those issued by UK authorities overseas, e.g. Embassies, High Commissions and HM Forces |

**Table 2a: Trusted government documents**

| **Document** | **Notes** |
| --- | --- |
| Current driving licence – old-style paper version | UK |
| Current photo driving licence | Non-UK licences must be valid for up to 12 months from the date the applicant entered the UK |
| Birth certificate – issued after time of birth | UK and Channel Islands |
| Marriage/civil partnership certificate | UK and Channel Islands |
| Adoption certificate | UK and Channel Islands |
| HM Forces ID card | UK |
| Firearms licence | UK and Channel Islands |

**Table 2b: Financial and social history documents**

| **Document** | **Notes** | **Issue date and validity** |
| --- | --- | --- |
| Mortgage statement | UK or EEA | Issued in last 12 months |
| Bank or building society statement | UK and Channel Islands or EEA | Issued in last 3 months |
| Bank or building society account opening confirmation letter | UK | Issued in last 3 months |
| Credit card statement | UK or EEA | Issued in last 3 months |
| Financial statement, e.g. pension or endowment | UK | Issued in last 12 months |
| P45 or P60 statement | UK and Channel Islands | Issued in last 12 months |
| Council Tax statement | UK and Channel Islands | Issued in last 12 months |
| Work permit or visa | UK | Valid up to expiry date |
| Letter of sponsorship from future employment provider | Non-UK or non-EEA only - valid only for applicants residing outside of the UK at time of application | Must still be valid |
| Utility bill | UK – not mobile telephone bill | Issued in last 3 months |
| Benefit statement, e.g. Child Benefit, Pension | UK | Issued in last 3 months |
| Central or local government, government agency, or local council document giving entitlement eg Work and Pensions, the Employment Service, HMRC | UK and Channel Islands | Issued in last 3 months |
| EU National ID card | - | Must still be valid |
| Cards carrying the PASS accreditation logo | UK and Channel Islands | Must still be valid |
| Letter from Head Teacher or College Principal | UK - for 16 to 19 year olds in full time education - only used in exceptional circumstances if other documents cannot be provided | Must still be valid |

**6.11 REVIEWING DBS CERTIFICATES**

6.11.1 The DBS will not issue a copy of the applicant’s DBS Certificate to the Registered Body who countersigned the DBS application form. The recruiting Manager will ask the applicant for sight of their DBS Certificate and consider the content.

**6.11.2 Recording the DBS information**

6.11.3 Phoenix Support will record the following information on issue of an employee’s DBS

* Certificate number
* Name, Date of birth
* Issue date
* Positive (i.e. it contains a conviction/caution) or negative (i.e. there is no information)

6.11.4 The completed form will be retained on the personnel file.

**6.11.5 Requesting a status check from the update service**

6.11.6 Registered Bodies will be entitled to ask the DBS for a copy of the applicant’s DBS Certificate if **all** of the following conditions apply:

* The individual is subscribed to the Update Service; and
* The employer has carried out a Status check which revealed a change to the DBS Certificate; and as a result
* The individual has applied for a new DBS check as the result of a change to an existing DBS Certificate; and
* The DBS issued the new DBS Certificate to the applicant more than 28 days ago; and
* The applicant has not shown the employer their new DBS Certificate.

**6.12 DBS DEFINITION OF A REGULATED ACTIVITY**

6.12.1 The full, legal definition of regulated activity is set out in Schedule 4 of the Safeguarding Vulnerable Groups Act 2006, as amended (in particular, by the Protection of Freedoms Act 2012). Regulated activity still excludes family arrangements, and personal, non-commercial arrangements.

### 6.12.2 Regulated activity (Adults) - There are six categories within the new definition of regulated activity and the definition of “Personal Care” relates to the activities undertaken by Phoenix Support.

* + 1. **Providing Health Care**
    2. **Providing Personal Care**
    3. **Providing Social Work**
    4. **Assistance with general household matters**
    5. **Assistance in the conduct of a person’s own affairs**
    6. **Conveying**

6.12.3 Anyone who provides an adult with physical assistance with eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails because of the adult’s age, illness or disability, is in regulated activity.

6.12.4 Anyone who prompts and then supervises an adult who, because of their age, illness or disability, cannot make the decision to eat or drink, go to the toilet, wash or bathe, get dressed or care for their mouth, skin, hair or nails without that prompting and supervision, is in regulated activity.

6.12.5 Anyone who trains, instructs or provides advice or guidance which relates to eating or drinking, going to the toilet, washing or bathing, dressing, oral care or care of the skin, hair or nails to adults who need it because of their age, illness or disability, is in regulated activity.

6.12.6 There is one exception to this. Excluded from regulated activity is any physical assistance provided to an adult in relation to the care of their hair when that assistance relates only to the cutting of the adult’s hair. This is to ensure that hairdressers who cut the hair of patients and residents in hospitals and care homes are not engaging in regulated activity.

6.12.7 Anyone who provides day to day assistance to an adult because of their age, illness or disability, where that assistance includes at least one of the following, is in regulated activity, managing the person’s cash, paying the person’s bills, or shopping on their behalf.

6.12.8 Any drivers and any assistants who transport an adult because of their age, illness or disability to or from places where they have received, or will be receiving, health care, relevant personal care or relevant social work, are in regulated activity. The driver does, or the person assists in, such conveying for the purpose of enabling the adult to receive services.

6.12.9 Conveying does not include licensed taxi drivers or licensed private hire drivers, and does not include trips taken for purposes other than to receive health care, personal care or social work (for example, trips for pleasure are excluded).

**6.12.10 Disclosure & Barring Service Application Form Procedures Flowchart**

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| --- |
| Advertisement for Vacancy must state that a check for DBS is required |

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| Invite successful candidate in to complete the DBS Application Form |

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| At this meeting, candidate should bring with them their ID & written proof of address |

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| Complete application with candidate in **Black Ink** ensuring all sections are completed |

|  |
| --- |
| Make sure candidate signs Section E |

|  |
| --- |
| Once checked and completed send in P&C envelope or secure to DBS |

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| Carry out risk assessment at this point: should you appoint candidate subject to satisfactory DBS Certificate? Will contact with service users be substantial, unsupervised & regular?  look at past history – question any gaps in employment |

**6.13 RETENTION**

6.13.1 DBS Certificates will remain the property of the employee at all times, Phoenix Support will not retain copies of any DBS form or details of convictions where it.

6.14.2 Office Admin will record on the DBS database information accordingly for compliance, this will be limited to

* + - Date of certificate issue
    - Certificate number
    - Yearly update service (Y/N)